

State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

AFSCME Council 93, Local 2301
Seabrook Supervisory Employees

Complainant

v.

Town of Seabrook

Respondent

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Case No. M-0592-19

Decision No. 2001-075

PRE-HEARING DECISION and ORDER

BACKGROUND

AFSCME Council 93, Local 2301, Seabrook Supervisory Employees ("Union") filed unfair labor practice charges on June 28, 2001 pursuant to RSA 273-A:5 I (e), (g), and (h) alleging that the Town of Seabrook ("Town") and its agents have breached the parties collective bargaining agreement (CBA) and otherwise violated its statutory obligations by failing to participate in negotiations for a successor agreement.

The Town answers by generally denying all allegations of the Union except the allegation that AFSCME is the certified representative for this bargaining unit.

The Union seeks relief in the form of an order of the PELRB compelling the Town to commence negotiations, to reimburse the Union for costs attendant to this filing, and to post the PELRB decision publicly. For its part, the Town seeks a dismissal of the Union's complaint and for an award of reasonable attorneys' fees and costs necessary to its defense of this complaint.

PARTICIPATING REPRESENTATIVES

For the Complainant: Jack McMath, NH Coordinator; Deputy Chief David Currier and
Wayne Soini, General Counsel, AFSCME

For the Respondent: Robert D. Ciandella, Esquire

PRIMARY ISSUE FOR DETERMINATION BY THE BOARD

1. Whether or not the PELRB has jurisdiction over the Union's complaint?
2. Whether or not the Union's complaint sufficiently states a claim violative of the statute?
3. Whether or not the Town has breached the parties' collective bargaining agreement (CBA) or violated its statutory obligation to negotiate in good faith by failing to participate in negotiations for a successor agreement, thereby committing an unfair labor practice?

LENGTH OF HEARING

The parties have agreed to waive the need for an evidentiary hearing in this matter and are submitting their respective cases upon an "Agreed Statement of Facts" and Memoranda of Law.

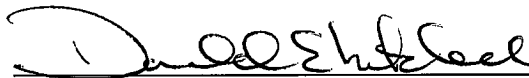
DECISION AND ORDER

1. The parties agree to meet and confer to develop an "Agreed Statement of Facts". It is understood that the parties shall include all facts necessary to make a determination of the above three issues.
2. In the event that the parties are able to stipulate as to the relevant facts, the said document shall be executed by both counsel and filed with the Board on or before September 14, 2001.
3. In the event that the parties do submit an unqualified "Agreed Statement of Facts" by September 14, 2001, then each shall file such appropriate dispositive pleadings with the Board, including memoranda of law in support thereof on or before September 30, 2001.
4. Thereafter, the parties specifically agree that the Board may render its decision and make such orders as necessary based upon the "Agreed Statement of Facts" as submitted and the relevant law as applied without the need for further hearing, unless

the Board determines, sua sponte, that the testimony of witnesses or oral arguments of law by counsel are necessary.

5. In the event that the parties are unable to come to agreement on all relevant facts, then each shall notify the Board on or before September 14, 2001, in which case they shall submit their "Agreed Statement of Facts" containing those facts upon which they have agreed. The Board will then schedule an evidentiary hearing, in its normal course, to hear testimony and receive evidence on relevant facts remaining in good faith disagreement.
6. Should an evidentiary hearing be deemed necessary in accordance with Paragraph #5, above, the parties shall exchange their final witness lists and final exhibit lists and submit the same to the Board no later than five (5) business days before any such evidentiary hearing is to be conducted. Thereafter, additional witnesses and exhibits shall be allowed only upon a showing that reasonable efforts would not have revealed the necessity of such testimony or submission of such evidence before that time.

Signed this 24th day of July , 2001.



Donald E. Mitchell, Esq.
Hearing Officer